

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 343

Introduced by Assembly Member Saldana

February 19, 2009

An act to add Chapter 11 (commencing with Section 49700) to Part 27 of Division 4 of Title 2 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 343, as amended, Saldana. Pupils: military families.

Existing

(1) *Existing* law authorizes a school district of choice, as defined, to give priority for attendance to children of military personnel, if the school district elected to accept transfer pupils by a resolution adopted by the governing board of the school district prior to April 1, 2005.

~~This bill would state the intent of the Legislature to ratify the Interstate Compact on Educational Opportunity for Military Children and would declare the purpose of that compact, as specified.~~

This bill would ratify the Interstate Compact on Educational Opportunity for Military Children to, among other things, facilitate the enrollment, placement, advancement, and transfer of the academic records of the children of military families for the purpose of removing barriers to their educational success due to the frequent moves and deployment of their parents. The compact would establish the Interstate Commission on Educational Opportunity for Military Children to provide for dispute resolution among member states, promulgate rules, and take other actions necessary for the administration of the compact. The compact would only become effective upon ratification by a minimum of 10 states.

The bill would authorize the Superintendent of Public Instruction to accept nonstate funding to offset the cost of the annual assessment required by the charter to be available upon appropriation.

By requiring local educational agencies to perform additional duties regarding the children of military families, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 11 (commencing with Section 49700)
2 is added to Part 27 of Division 4 of Title 2 of the Education Code,
3 to read:

4
5 CHAPTER 11. INTERSTATE COMPACT ON EDUCATIONAL
6 OPPORTUNITY FOR MILITARY CHILDREN
7

8 ~~49700. The Legislature intends to ratify the Interstate Compact~~
9 ~~on Educational Opportunity for Military Children. The Legislature~~

10 49700. *The Legislature finds and declares that the purpose of*
11 *the Interstate Compact on Educational Opportunity for Military*
12 *Children is to remove barriers to educational success imposed on*
13 *children of military families due to the frequent moves and*
14 *deployment of their parents by doing all of the following:*

15 (a) *Facilitating the timely enrollment of children of military*
16 *families and ensuring that they are not placed at a disadvantage*
17 *due to difficulty in the transfer of educational records from the*
18 *previous school district or variations in entrance or age*
19 *requirements.*

20 (b) *Facilitating the pupil placement process through which*
21 *children of military families are not disadvantaged by variations*

1 in attendance requirements, scheduling, sequencing, grading, course
2 content, or assessment.

3 (c) Facilitating the qualification and eligibility of children of
4 military families for enrollment, educational programs, and
5 participation in extracurricular academic, athletic, and social
6 activities.

7 (d) Facilitating the on-time graduation of children of military
8 families.

9 (e) Providing for the promulgation and enforcement of
10 administrative rules implementing the provisions of the compact.

11 (f) Providing for the uniform collection and sharing of
12 information between and among member states, schools, and
13 military families pursuant to the compact.

14 (g) Promoting coordination between the compact and other
15 compacts affecting military children.

16 (h) Promoting flexibility and cooperation between the
17 educational system, parents, and the pupil in order to achieve
18 educational success for the pupil.

19 49700.5. *The Legislature of the State of California hereby*
20 *ratifies the Interstate Compact on Educational Opportunity for*
21 *Military Children as set forth in Section 49701.*

22 49701. *The provisions of the Interstate Compact on Educational*
23 *Opportunity for Military Children are as follows:*

24
25 *Article I. Purpose*

26
27 *It is the purpose of this compact to remove barriers to*
28 *educational success imposed on children of military families*
29 *because of frequent moves and deployment of their parents by:*

30 (A) *Facilitating the timely enrollment of children of military*
31 *families and ensuring that they are not placed at a disadvantage*
32 *due to difficulty in the transfer of education records from the*
33 *previous school district(s) or variations in entrance/age*
34 *requirements.*

35 (B) *Facilitating the student placement process through which*
36 *children of military families are not disadvantaged by variations*
37 *in attendance requirements, scheduling, sequencing, grading,*
38 *course content, or assessment.*

1 (C) *Facilitating the qualification and eligibility for enrollment,*
2 *educational programs, and participation in extracurricular*
3 *academic, athletic, and social activities.*

4 (D) *Facilitating the on-time graduation of children of military*
5 *families.*

6 (E) *Providing for the promulgation and enforcement of*
7 *administrative rules implementing the provisions of this compact.*

8 (F) *Providing for the uniform collection and sharing of*
9 *information between and among member states, schools, and*
10 *military families under this compact.*

11 (G) *Promoting coordination between this compact and other*
12 *compacts affecting military children.*

13 (H) *Promoting flexibility and cooperation between the*
14 *educational system, parents and the student in order to achieve*
15 *educational success for the student.*

16
17 *Article II. Definitions*
18

19 *As used in this compact, unless the context clearly requires a*
20 *different construction:*

21 (A) *“Active duty” means: full-time duty status in the active*
22 *uniformed service of the United States, including members of the*
23 *National Guard and Reserve on active duty orders pursuant to 10*
24 *U.S.C. Sections 1209 and 1211.*

25 (B) *“Children of military families” means: a school-aged child*
26 *or children, enrolled in Kindergarten through Twelfth grade, in*
27 *the household of an active duty member.*

28 (C) *“Compact commissioner” means: the voting representative*
29 *of each compacting state appointed pursuant to Article VIII of this*
30 *compact.*

31 (D) *“Deployment” means: the period one (1) month prior to*
32 *the service members’ departure from their home station on military*
33 *orders though six (6) months after return to their home station.*

34 (E) *“Educational records” means: those official records, files,*
35 *and data directly related to a student and maintained by the school*
36 *or local education agency, including, but not limited to, records*
37 *encompassing all the material kept in the student’s cumulative*
38 *folder such as general identifying data, records of attendance and*
39 *of academic work completed, records of achievement and results*

1 of evaluative tests, health data, disciplinary status, test protocols,
2 and individualized education programs.

3 (F) “Extracurricular activities” means: a voluntary activity
4 sponsored by the school or local education agency or an
5 organization sanctioned by the local education agency.
6 Extracurricular activities include, but are not limited to,
7 preparation for and involvement in public performances, contests,
8 athletic competitions, demonstrations, displays, and club activities.

9 (G) “Interstate Commission on Educational Opportunity for
10 Military Children” means: the commission that is created under
11 Article IX of this compact, which is generally referred to as
12 Interstate Commission.

13 (H) “Local education agency” means: a public authority legally
14 constituted by the state as an administrative agency to provide
15 control of and direction for Kindergarten through Twelfth (12th)
16 grade public educational institutions.

17 (I) “Member state” means: a state that has enacted this
18 compact.

19 (J) “Military installation” means: means a base, camp, post,
20 station, yard, center, homeport facility for any ship, or other
21 activity under the jurisdiction of the Department of Defense,
22 including any leased facility, which is located within any of the
23 several States, the District of Columbia, the Commonwealth of
24 Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the
25 Northern Marianas Islands, and any other U.S. Territory. Such
26 term does not include any facility used primarily for civil works,
27 rivers and harbors projects, or flood control projects.

28 (K) “Non-member state” means: a state that has not enacted
29 this compact.

30 (L) “Receiving state” means: the state to which a child of a
31 military family is sent, brought, or caused to be sent or brought.

32 (M) “Rule” means: a written statement by the Interstate
33 Commission promulgated pursuant to Article XII of this compact
34 that is of general applicability, implements, interprets, or
35 prescribes a policy or provision of the Compact, or an
36 organizational, procedural, or practice requirement of the
37 Interstate Commission, and has the force and effect of statutory
38 law in a member state, and includes the amendment, repeal, or
39 suspension of an existing rule.

1 (N) “Sending state” means: the state from which a child of a
2 military family is sent, brought, or caused to be sent or brought.

3 (O) “State” means: a state of the United States, the District of
4 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
5 Islands, Guam, American Samoa, the Northern Marianas Islands,
6 and any other U.S. Territory.

7 (P) “Student” means: the child of a military family for whom
8 the local education agency receives public funding and who is
9 formally enrolled in Kindergarten through Twelfth (12th) grade.

10 (Q) “Transition” means: 1) the formal and physical process of
11 transferring from school to school or 2) the period of time in which
12 a student moves from one school in the sending state to another
13 school in the receiving state.

14 (R) “Uniformed service(s)” means: the Army, Navy, Air Force,
15 Marine Corps, Coast Guard as well as the Commissioned Corps
16 of the National Oceanic and Atmospheric Administration, and
17 Public Health Services.

18 (S) “Veteran” means: a person who served in the uniformed
19 services and who was discharged or released therefrom under
20 conditions other than dishonorable.

21
22 Article III. Applicability
23

24 (A) Except as otherwise provided in Section B, this compact
25 shall apply to the children of:

26 (1) Active duty members of the uniformed services as defined
27 in this compact, including members of the National Guard and
28 Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209
29 and 1211;

30 (2) Members or veterans of the uniformed services who are
31 severely injured and medically discharged or retired for a period
32 of one (1) year after medical discharge or retirement; and

33 (3) Members of the uniformed services who die on active duty
34 or as a result of injuries sustained on active duty for a period of
35 one (1) year after death.

36 (B) The provisions of this interstate compact shall only apply
37 to local education agencies as defined in this compact.

38 (C) The provisions of this compact shall not apply to the children
39 of:

1 (1) *Inactive members of the national guard and military*
2 *reserves;*

3 (2) *Members of the uniformed services now retired, except as*
4 *provided in Section A;*

5 (3) *Veterans of the uniformed services, except as provided in*
6 *Section A; and*

7 (4) *Other U.S. Dept. of Defense personnel and other federal*
8 *agency civilian and contract employees not defined as active duty*
9 *members of the uniformed services.*

10
11 *Article IV. Educational Records and Enrollment*
12

13 (A) *Unofficial or “hand-carried” education records – In the*
14 *event that official education records cannot be released to the*
15 *parents for the purpose of transfer, the custodian of the records*
16 *in the sending state shall prepare and furnish to the parent a*
17 *complete set of unofficial educational records containing uniform*
18 *information as determined by the Interstate Commission to the*
19 *extent feasible. Upon receipt of the unofficial education records*
20 *by a school in the receiving state, the school shall enroll and*
21 *appropriately place the student based on the information provided*
22 *in the unofficial records pending validation by the official records,*
23 *as quickly as possible.*

24 (B) *Official education records/transcripts – Simultaneous with*
25 *the enrollment and conditional placement of the student, the school*
26 *in the receiving state shall request the student’s official education*
27 *record from the school in the sending state. Upon receipt of this*
28 *request, the school in the sending state will process and furnish*
29 *the official education records to the school in the receiving state*
30 *within ten (10) days or within such time as is reasonably*
31 *determined under the rules promulgated by the Interstate*
32 *Commission to the extent practicable in each case.*

33 (C) *Immunizations – Compacting states shall give thirty (30)*
34 *days from the date of enrollment or within such time as is*
35 *reasonably determined under the rules promulgated by the*
36 *Interstate Commission, for students to obtain any immunization(s)*
37 *required by the receiving state. For a series of immunizations,*
38 *initial vaccinations must be obtained within thirty (30) days or*
39 *within such time as is reasonably determined under the rules*
40 *promulgated by the Interstate Commission.*

1 (D) Kindergarten and First (1st) grade entrance age – Students
2 shall be allowed to continue their enrollment at grade level in the
3 receiving state commensurate with their grade level (including
4 Kindergarten) from a local education agency in the sending state
5 at the time of transition, regardless of age. A student that has
6 satisfactorily completed the prerequisite grade level in the local
7 education agency in the sending state shall be eligible for
8 enrollment in the next highest grade level in the receiving state,
9 regardless of age. A student transferring after the start of the
10 school year in the receiving state shall enter the school in the
11 receiving state on his or her validated level from an accredited
12 school in the sending state.

13
14 Article V. Placement and Attendance

15
16 (A) Course placement – When the student transfers before or
17 during the school year, the receiving state school shall initially
18 honor placement of the student in educational courses based on
19 the student's enrollment in the sending state school and/or
20 educational assessments conducted at the school in the sending
21 state if the courses are offered and there is space available, as
22 determined by the school district. Course placement includes, but
23 is not limited to, Honors, International Baccalaureate, Advanced
24 Placement, vocational, technical and career pathways courses.
25 Continuing the student's academic program from the previous
26 school and promoting placement in academically and career
27 challenging courses should be paramount when considering
28 placement. This does not preclude the school in the receiving state
29 from performing subsequent evaluations to ensure appropriate
30 placement and continued enrollment of the student in the course(s).

31 (B) Educational program placement – The receiving state school
32 shall initially honor placement of the student in educational
33 programs based on current educational assessments conducted at
34 the school in the sending state or participation/placement in like
35 programs in the sending state, provided that the program exists
36 in the school and there is space available, as determined by the
37 school district. Such programs include, but are not limited to: 1)
38 gifted and talented programs; and 2) English as a second language
39 (ESL). This does not preclude the school in the receiving state

1 *from performing subsequent evaluations to ensure appropriate*
2 *placement of the student.*

3 *(C) Special education services – 1) In compliance with the*
4 *federal requirements of the Individuals with Disabilities Education*
5 *Act (IDEA), 20 U.S.C.A. Section 1400 et seq., the receiving state*
6 *shall initially provide comparable services to a student with*
7 *disabilities based on his/her current Individualized Education*
8 *Program (IEP); and 2) In compliance with the requirements of*
9 *Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794,*
10 *and with Title II of the Americans with Disabilities Act, 42 U.S.C.A.*
11 *Sections 12131-12165, the receiving state shall make reasonable*
12 *accommodations and modifications to address the needs of*
13 *incoming students with disabilities, subject to an existing 504 or*
14 *Title II Plan, to provide the student with equal access to education.*
15 *This does not preclude the school in the receiving state from*
16 *performing subsequent evaluations to ensure appropriate*
17 *placement of the student.*

18 *(D) Placement flexibility – Local education agency*
19 *administrative officials shall have flexibility in waiving*
20 *course/program prerequisites, or other preconditions for placement*
21 *in courses/programs offered under the jurisdiction of the local*
22 *education agency.*

23 *(E) Absence as related to deployment activities – A student*
24 *whose parent or legal guardian is an active duty member of the*
25 *uniformed services, as defined by the compact, and has been called*
26 *to duty for, is on leave from, or immediately returned from*
27 *deployment to a combat zone or combat support posting, shall be*
28 *granted additional excused absences at the discretion of the local*
29 *education agency superintendent to visit with his or her parent or*
30 *legal guardian relative to such leave or deployment of the parent*
31 *or guardian.*

32 33 Article VI. Eligibility

34 35 (A) Eligibility for enrollment

36 *(1) Special power of attorney, relative to the guardianship of a*
37 *child of a military family and executed under applicable law shall*
38 *be sufficient for the purposes of enrollment and all other actions*
39 *requiring parental participation and consent.*

1 (2) A local education agency shall be prohibited from charging
2 local tuition to a transitioning military child placed in the care of
3 a non-custodial parent or other person standing in loco parentis
4 who lives in a jurisdiction other than that of the custodial parent.

5 (3) A transitioning military child, placed in the care of a non
6 custodial parent or other person standing in loco parentis who
7 lives in a jurisdiction other than that of the custodial parent, may
8 continue to attend the school in which he/she was enrolled while
9 residing with the custodial parent.

10 (B) Eligibility for extracurricular participation – State and local
11 education agencies shall facilitate the opportunity for transitioning
12 military children's inclusion in extracurricular activities,
13 regardless of application deadlines, to the extent they are otherwise
14 qualified and space is available, as determined by the school
15 district.

16 17 Article VII. Graduation 18

19 In order to facilitate the on-time graduation of children of
20 military families states and local education agencies shall
21 incorporate the following procedures:

22 (A) Waiver requirements – Local education agency
23 administrative officials shall use best efforts to waive specific
24 courses required for graduation if similar course work has been
25 satisfactorily completed in another local education agency or shall
26 provide reasonable justification for denial. Should a waiver not
27 be granted to a student who would qualify to graduate from the
28 sending school, the local education agency shall provide an
29 alternative means of acquiring required coursework so that
30 graduation may occur on time.

31 (B) Exit exams – States shall accept: 1) exit or end-of-course
32 exams required for graduation from the sending state; or 2)
33 national norm-referenced achievement tests; or 3) alternative
34 testing, in lieu of testing requirements for graduation in the
35 receiving state; or 4) in California, the passage of the California
36 High School Exit Examination is required for the student to
37 graduate if the diploma is to be issued by a California public
38 school, as long as it is a requirement in California. In the event
39 the above alternatives cannot be accommodated by the receiving

1 *state for a student transferring in his or her Senior year, then the*
2 *provisions of Article VII, Section C shall apply.*

3 *(C) Transfers during Senior year – Should a military student*
4 *transferring at the beginning or during his or her Senior year be*
5 *ineligible to graduate from the receiving local education agency*
6 *after all alternatives have been considered, the sending and*
7 *receiving local education agencies shall make best efforts to ensure*
8 *the receipt of a diploma from the sending local education agency,*
9 *if the student meets the graduation requirements of the sending*
10 *local education agency. In the event that one of the states in*
11 *question is not a member of this compact, the member state shall*
12 *use best efforts to facilitate the on-time graduation of the student*
13 *in accordance with Sections A and B of this Article.*

14
15 *Article VIII. State Coordination*
16

17 *(A) Each member state shall, through the creation of a State*
18 *Council or use of an existing body or board, provide for the*
19 *coordination among its agencies of government, local education*
20 *agencies and military installations concerning the state's*
21 *participation in, and compliance with, this compact and Interstate*
22 *Commission activities. While each member state may determine*
23 *the membership of its own State Council, its membership must*
24 *include at least: the state superintendent of education,*
25 *superintendent of a school district with a high concentration of*
26 *military children, representative from a military installation, one*
27 *representative each from the legislative and executive branches*
28 *of government, and other offices and stakeholder groups the State*
29 *Council deems appropriate. A member state that does not have a*
30 *school district deemed to contain a high concentration of military*
31 *children may appoint a superintendent from another school district*
32 *to represent local education agencies on the State Council.*

33 *(B) The State Council of each member state shall appoint or*
34 *designate a military family education liaison to assist military*
35 *families and the state in facilitating the implementation of this*
36 *compact.*

37 *(C) The compact commissioner responsible for the*
38 *administration and management of the state's participation in the*
39 *compact shall be appointed by the Governor or as otherwise*
40 *determined by each member state.*

1 (D) *The compact commissioner and the military family education*
2 *liaison designated herein shall be ex-officio members of the State*
3 *Council, unless either is already a full voting member of the State*
4 *Council.*

5
6 Article IX. *Interstate Commission on Educational Opportunity*
7 *for Military Children*
8

9 *The member states hereby create the “Interstate Commission*
10 *on Educational Opportunity for Military Children.” The activities*
11 *of the Interstate Commission are the formation of public policy*
12 *and are a discretionary state function. The Interstate Commission*
13 *shall:*

14 (A) *Be a body corporate and joint agency of the member states*
15 *and shall have all the responsibilities, powers and duties set forth*
16 *herein, and such additional powers as may be conferred upon it*
17 *by a subsequent concurrent action of the respective legislatures*
18 *of the member states in accordance with the terms of this compact.*

19 (B) *Consist of one Interstate Commission voting representative*
20 *from each member state, who shall be that state’s compact*
21 *commissioner.*

22 (1) *Each member state represented at a meeting of the Interstate*
23 *Commission is entitled to one vote.*

24 (2) *A majority of the total member states shall constitute a*
25 *quorum for the transaction of business, unless a larger quorum is*
26 *required by the bylaws of the Interstate Commission.*

27 (3) *A representative shall not delegate a vote to another member*
28 *state. In the event the compact commissioner is unable to attend*
29 *a meeting of the Interstate Commission, the Governor or State*
30 *Council may delegate voting authority to another person from*
31 *their state for a specified meeting.*

32 (4) *The bylaws may provide for meetings of the Interstate*
33 *Commission to be conducted by telecommunication or electronic*
34 *communication.*

35 (C) *Consist of ex-officio, non-voting representatives who are*
36 *members of interested organizations. Such ex-officio members, as*
37 *defined in the bylaws, may include, but not be limited to, members*
38 *of the representative organizations of military family advocates,*
39 *local education agency officials, parent and teacher groups, the*
40 *U.S. Department of Defense, the Education Commission of the*

1 *States, the Interstate Agreement on the Qualification of Educational*
2 *Personnel and other interstate compacts affecting the education*
3 *of children of military members.*

4 *(D) Meet at least once each calendar year. The chairperson*
5 *may call additional meetings and, upon the request of a simple*
6 *majority of the member states, shall call additional meetings.*

7 *(E) Establish an executive committee, whose members shall*
8 *include the officers of the Interstate Commission and such other*
9 *members of the Interstate Commission as determined by the bylaws.*
10 *Members of the executive committee shall serve a one year term.*
11 *Members of the executive committee shall be entitled to one vote*
12 *each. The executive committee shall have the power to act on*
13 *behalf of the Interstate Commission, with the exception of*
14 *rulemaking, during periods when the Interstate Commission is not*
15 *in session. The executive committee shall oversee the day-to-day*
16 *activities of the administration of the compact including*
17 *enforcement and compliance with the provisions of the compact,*
18 *its bylaws and rules, and other such duties as deemed necessary.*
19 *The U.S. Dept. of Defense shall serve as an ex-officio, nonvoting*
20 *member of the executive committee.*

21 *(F) Establish bylaws and rules that provide for conditions and*
22 *procedures under which the Interstate Commission shall make its*
23 *information and official records available to the public for*
24 *inspection or copying. The Interstate Commission may exempt*
25 *from disclosure information or official records to the extent they*
26 *would adversely affect personal privacy rights or proprietary*
27 *interests.*

28 *(G) Public notice shall be given by the Interstate Commission*
29 *of all meetings and all meetings shall be open to the public, except*
30 *as set forth in the rules or as otherwise provided in the compact.*
31 *The Interstate Commission and its committees may close a meeting,*
32 *or portion thereof, where it determines by two-thirds vote that an*
33 *open meeting would be likely to:*

34 *(1) Relate solely to the Interstate Commission's internal*
35 *personnel practices and procedures;*

36 *(2) Disclose matters specifically exempted from disclosure by*
37 *federal and state statute;*

38 *(3) Disclose trade secrets or commercial or financial*
39 *information which is privileged or confidential;*

1 (4) *Involve accusing a person of a crime, or formally censuring*
2 *a person;*

3 (5) *Disclose information of a personal nature where disclosure*
4 *would constitute a clearly unwarranted invasion of personal*
5 *privacy;*

6 (6) *Disclose investigative records compiled for law enforcement*
7 *purposes; or*

8 (7) *Specifically relate to the Interstate Commission's*
9 *participation in a civil action or other legal proceeding.*

10 (H) *For a meeting, or portion of a meeting, closed pursuant to*
11 *this provision, the Interstate Commission's legal counsel or*
12 *designee shall certify that the meeting may be closed and shall*
13 *reference each relevant exemptible provision. The Interstate*
14 *Commission shall keep minutes which shall fully and clearly*
15 *describe all matters discussed in a meeting and shall provide a*
16 *full and accurate summary of actions taken, and the reasons*
17 *therefore, including a description of the views expressed and the*
18 *record of a roll call vote. All documents considered in connection*
19 *with an action shall be identified in such minutes. All minutes and*
20 *documents of a closed meeting shall remain under seal, subject to*
21 *release by a majority vote of the Interstate Commission.*

22 (I) *The Interstate Commission shall collect standardized data*
23 *concerning the educational transition of the children of military*
24 *families under this compact as directed through its rules which*
25 *shall specify the data to be collected, the means of collection and*
26 *data exchange and reporting requirements. Such methods of data*
27 *collection, exchange and reporting shall, in so far as is reasonably*
28 *possible, conform to current technology and coordinate its*
29 *information functions with the appropriate custodian of records*
30 *as identified in the bylaws and rules.*

31 (J) *The Interstate Commission shall create a process that*
32 *permits military officials, education officials and parents to inform*
33 *the Interstate Commission if and when there are alleged violations*
34 *of the compact or its rules or when issues subject to the jurisdiction*
35 *of the compact or its rules are not addressed by the state or local*
36 *education agency. This section shall not be construed to create a*
37 *private right of action against the Interstate Commission or any*
38 *member state.*

1 Article X. *Powers and Duties of the Interstate Commission*

2
3 *The Interstate Commission shall have the following powers:*

4 (A) *To provide for dispute resolution among member states.*

5 (B) *To promulgate rules and take all necessary actions to effect*
6 *the goals, purposes, and obligations as enumerated in this compact.*

7 *The rules shall have the force and effect of statutory law and shall*
8 *be binding in the compact states to the extent and in the manner*
9 *provided in this compact.*

10 (C) *To issue, upon request of a member state, advisory opinions*
11 *concerning the meaning or interpretation of the interstate compact,*
12 *its bylaws, rules, and actions.*

13 (D) *To enforce compliance with the compact provisions, the*
14 *rules promulgated by the Interstate Commission, and the bylaws,*
15 *using all necessary and proper means, including, but not limited*
16 *to, the use of judicial process.*

17 (E) *To establish and maintain offices which shall be located*
18 *within one or more of the member states.*

19 (F) *To purchase and maintain insurance and bonds.*

20 (G) *To borrow, accept, hire, or contract for services of*
21 *personnel.*

22 (H) *To establish and appoint committees including, but not*
23 *limited to, an executive committee as required by Article IX, Section*
24 *E, which shall have the power to act on behalf of the Interstate*
25 *Commission in carrying out its powers and duties hereunder.*

26 (I) *To elect or appoint such officers, attorneys, employees,*
27 *agents, or consultants, and to fix their compensation, define their*
28 *duties and determine their qualifications, and to establish the*
29 *Interstate Commission's personnel policies and programs relating*
30 *to conflicts of interest, rates of compensation, and qualifications*
31 *of personnel.*

32 (J) *To accept any and all donations and grants of money,*
33 *equipment, supplies, materials, and services, and to receive, utilize,*
34 *and dispose of it.*

35 (K) *To lease, purchase, accept contributions or donations of,*
36 *or otherwise to own, hold, improve or use any property, real,*
37 *personal, or mixed.*

38 (L) *To sell, convey, mortgage, pledge, lease, exchange, abandon,*
39 *or otherwise dispose of any property, real, personal, or mixed.*

40 (M) *To establish a budget and make expenditures.*

1 (N) *To adopt a seal and bylaws governing the management and*
2 *operation of the Interstate Commission.*

3 (O) *To report annually to the legislatures, governors, judiciary,*
4 *and state councils of the member states concerning the activities*
5 *of the Interstate Commission during the preceding year. Such*
6 *reports shall also include any recommendations that may have*
7 *been adopted by the Interstate Commission.*

8 (P) *To coordinate education, training, and public awareness*
9 *regarding the compact, its implementation and operation for*
10 *officials and parents involved in such activity.*

11 (Q) *To establish uniform standards for the reporting, collecting,*
12 *and exchanging of data.*

13 (R) *To maintain corporate books and records in accordance*
14 *with the bylaws.*

15 (S) *To perform such functions as may be necessary or*
16 *appropriate to achieve the purposes of this compact.*

17 (T) *To provide for the uniform collection and sharing of*
18 *information between and among member states, schools, and*
19 *military families under this compact.*

20
21 Article XI. *Organization and Operation of the Interstate*
22 *Commission*
23

24 (A) *The Interstate Commission shall, by a majority of the*
25 *members present and voting, within 12 months after the first*
26 *Interstate Commission meeting, adopt bylaws to govern its conduct*
27 *as may be necessary or appropriate to carry out the purposes of*
28 *the compact, including, but not limited to:*

29 (1) *Establishing the fiscal year of the Interstate Commission;*

30 (2) *Establishing an executive committee, and such other*
31 *committees as may be necessary;*

32 (3) *Providing for the establishment of committees and for*
33 *governing any general or specific delegation of authority or*
34 *function of the Interstate Commission;*

35 (4) *Providing reasonable procedures for calling and conducting*
36 *meetings of the Interstate Commission, and ensuring reasonable*
37 *notice of each such meeting;*

38 (5) *Establishing the titles and responsibilities of the officers*
39 *and staff of the Interstate Commission;*

1 (6) *Providing a mechanism for concluding the operations of the*
2 *Interstate Commission and the return of surplus funds that may*
3 *exist upon the termination of the compact after the payment and*
4 *reserving of all of its debts and obligations.*

5 (7) *Providing “start up” rules for initial administration of the*
6 *compact.*

7 (B) *The Interstate Commission shall, by a majority of the*
8 *members, elect annually from among its members a chairperson,*
9 *a vice-chairperson, and a treasurer, each of whom shall have such*
10 *authority and duties as may be specified in the bylaws. The*
11 *chairperson or, in the chairperson’s absence or disability, the*
12 *vice-chairperson, shall preside at all meetings of the Interstate*
13 *Commission. The officers so elected shall serve without*
14 *compensation or remuneration from the Interstate Commission;*
15 *provided that, subject to the availability of budgeted funds, the*
16 *officers shall be reimbursed for ordinary and necessary costs and*
17 *expenses incurred by them in the performance of their*
18 *responsibilities as officers of the Interstate Commission.*

19 (C) *Executive Committee, Officers and Personnel*

20 (1) *The executive committee shall have such authority and duties*
21 *as may be set forth in the bylaws, including, but not limited to:*

22 (a) *Managing the affairs of the Interstate Commission in a*
23 *manner consistent with the bylaws and purposes of the Interstate*
24 *Commission;*

25 (b) *Overseeing an organizational structure within, and*
26 *appropriate procedures for the Interstate Commission to provide*
27 *for the creation of rules, operating procedures, and administrative*
28 *and technical support functions; and*

29 (c) *Planning, implementing, and coordinating communications*
30 *and activities with other state, federal and local government*
31 *organizations in order to advance the goals of the Interstate*
32 *Commission.*

33 (2) *The executive committee may, subject to the approval of the*
34 *Interstate Commission, appoint or retain an executive director for*
35 *such period, upon such terms and conditions and for such*
36 *compensation, as the Interstate Commission may deem appropriate.*
37 *The executive director shall serve as secretary to the Interstate*
38 *Commission, but shall not be a Member of the Interstate*
39 *Commission. The executive director shall hire and supervise such*
40 *other persons as may be authorized by the Interstate Commission.*

1 (D) *The Interstate Commission's executive director and its*
2 *employees shall be immune from suit and liability, either personally*
3 *or in their official capacity, for a claim for damage to or loss of*
4 *property or personal injury or other civil liability caused or arising*
5 *out of or relating to an actual or alleged act, error, or omission*
6 *that occurred, or that such person had a reasonable basis for*
7 *believing occurred, within the scope of Interstate Commission*
8 *employment, duties, or responsibilities; provided, that such person*
9 *shall not be protected from suit or liability for damage, loss, injury,*
10 *or liability caused by the intentional or willful and wanton*
11 *misconduct of such person.*

12 (1) *The liability of the Interstate Commission's executive*
13 *director and employees or Interstate Commission representatives,*
14 *acting within the scope of such person's employment or duties for*
15 *acts, errors, or omissions occurring within such person's state*
16 *may not exceed the limits of liability set forth under the*
17 *Constitution and laws of that state for state officials, employees,*
18 *and agents. The Interstate Commission is considered to be an*
19 *instrumentality of the states for the purposes of any such action.*
20 *Nothing in this subsection shall be construed to protect such person*
21 *from suit or liability for damage, loss, injury, or liability caused*
22 *by the intentional or willful and wanton misconduct of such person.*

23 (2) *The Interstate Commission shall defend the executive*
24 *director and its employees and, subject to the approval of the*
25 *Attorney General or other appropriate legal counsel of the member*
26 *state represented by an Interstate Commission representative,*
27 *shall defend such Interstate Commission representative in any*
28 *civil action seeking to impose liability arising out of an actual or*
29 *alleged act, error or omission that occurred within the scope of*
30 *Interstate Commission employment, duties or responsibilities, or*
31 *that the defendant had a reasonable basis for believing occurred*
32 *within the scope of Interstate Commission employment, duties, or*
33 *responsibilities, provided that the actual or alleged act, error, or*
34 *omission did not result from intentional or willful and wanton*
35 *misconduct on the part of such person.*

36 (3) *To the extent not covered by the state involved, member*
37 *state, or the Interstate Commission, the representatives or*
38 *employees of the Interstate Commission shall be held harmless in*
39 *the amount of a settlement or judgment, including attorney's fees*
40 *and costs, obtained against such persons arising out of an actual*

1 *or alleged act, error, or omission that occurred within the scope*
2 *of Interstate Commission employment, duties, or responsibilities,*
3 *or that such persons had a reasonable basis for believing occurred*
4 *within the scope of Interstate Commission employment, duties, or*
5 *responsibilities, provided that the actual or alleged act, error, or*
6 *omission did not result from intentional or willfull and wanton*
7 *misconduct on the part of such persons.*

8
9 *Article XII. Rulemaking Functions of the Interstate Commission*

10
11 *(A) Rulemaking Authority—The Interstate Commission shall*
12 *promulgate reasonable rules in order to effectively and efficiently*
13 *achieve the purposes of this Compact. Notwithstanding the*
14 *foregoing, in the event the Interstate Commission exercises its*
15 *rulemaking authority in a manner that is beyond the scope of the*
16 *purposes of this Act, or the powers granted hereunder, then such*
17 *an action by the Interstate Commission shall be invalid and have*
18 *no force or effect.*

19 *(B) Rulemaking Procedure – Rules shall be made pursuant to*
20 *a rulemaking process that substantially conforms to the “Model*
21 *State Administrative Procedure Act,” of 1981, Uniform Laws*
22 *Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate*
23 *to the operations of the Interstate Commission.*

24 *(C) Not later than thirty (30) days after a rule is promulgated,*
25 *any person may file a petition for judicial review of the rule;*
26 *provided, that the filing of such a petition shall not stay or*
27 *otherwise prevent the rule from becoming effective unless the court*
28 *finds that the petitioner has a substantial likelihood of success.*
29 *The court shall give deference to the actions of the Interstate*
30 *Commission consistent with applicable law and shall not find the*
31 *rule to be unlawful if the rule represents a reasonable exercise of*
32 *the Interstate Commission’s authority.*

33 *(D) If a majority of the legislatures of the compacting states*
34 *rejects a Rule by enactment of a statute or resolution in the same*
35 *manner used to adopt the compact, then such rule shall have no*
36 *further force and effect in any compacting state.*

37
38 *Article XIII. Oversight, Enforcement, and Dispute Resolution*

39
40 *(A) Oversight*

1 (1) *The executive, legislative and judicial branches of state*
2 *government in each member state shall enforce this compact and*
3 *shall take all actions necessary and appropriate to effectuate the*
4 *compact's purposes and intent. The provisions of this compact*
5 *and the rules promulgated hereunder shall have standing as*
6 *statutory law.*

7 (2) *All courts shall take judicial notice of the compact and the*
8 *rules in any judicial or administrative proceeding in a member*
9 *state pertaining to the subject matter of this compact which may*
10 *affect the powers, responsibilities or actions of the Interstate*
11 *Commission.*

12 (3) *The Interstate Commission shall be entitled to receive all*
13 *service of process in any such proceeding, and shall have standing*
14 *to intervene in the proceeding for all purposes. Failure to provide*
15 *service of process to the Interstate Commission shall render a*
16 *judgment or order void as to the Interstate Commission, this*
17 *compact or promulgated rules.*

18 (B) *Default, Technical Assistance, Suspension and Termination*
19 *– If the Interstate Commission determines that a member state has*
20 *defaulted in the performance of its obligations or responsibilities*
21 *under this compact, or the bylaws or promulgated rules, the*
22 *Interstate Commission shall:*

23 (1) *Provide written notice to the defaulting state and other*
24 *member states, of the nature of the default, the means of curing*
25 *the default and any action taken by the Interstate Commission.*
26 *The Interstate Commission shall specify the conditions by which*
27 *the defaulting state must cure its default.*

28 (2) *Provide remedial training and specific technical assistance*
29 *regarding the default.*

30 (3) *If the defaulting state fails to cure the default, the defaulting*
31 *state shall be terminated from the compact upon an affirmative*
32 *vote of a majority of the member states and all rights, privileges*
33 *and benefits conferred by this compact shall be terminated from*
34 *the effective date of termination. A cure of the default does not*
35 *relieve the offending state of obligations or liabilities incurred*
36 *during the period of the default.*

37 (4) *Suspension or termination of membership in the compact*
38 *shall be imposed only after all other means of securing compliance*
39 *have been exhausted. Notice of intent to suspend or terminate shall*
40 *be given by the Interstate Commission to the Governor, the*

1 majority and minority leaders of the defaulting state's legislature,
2 and each of the member states.

3 (5) The state which has been suspended or terminated is
4 responsible for all assessments, obligations and liabilities incurred
5 through the effective date of suspension or termination including
6 obligations, the performance of which extends beyond the effective
7 date of suspension or termination.

8 (6) The Interstate Commission shall not bear any costs relating
9 to any state that has been found to be in default or which has been
10 suspended or terminated from the compact, unless otherwise
11 mutually agreed upon in writing between the Interstate Commission
12 and the defaulting state.

13 (7) The defaulting state may appeal the action of the Interstate
14 Commission by petitioning the U.S. District Court for the District
15 of Columbia or the federal district where the Interstate Commission
16 has its principal offices. The prevailing party shall be awarded
17 all costs of such litigation including reasonable attorney's fees.

18 (C) *Dispute Resolution*

19 (1) The Interstate Commission shall attempt, upon the request
20 of a member state, to resolve disputes which are subject to the
21 compact and which may arise among member states and between
22 member and nonmember states.

23 (2) The Interstate Commission shall promulgate a rule providing
24 for both mediation and binding dispute resolution for disputes as
25 appropriate.

26 (D) *Enforcement*

27 (1) The Interstate Commission, in the reasonable exercise of its
28 discretion, shall enforce the provisions and rules of this compact.

29 (2) The Interstate Commission may, by majority vote of the
30 members, initiate legal action in the United State District Court
31 for the District of Columbia or, at the discretion of the Interstate
32 Commission, in the federal district where the Interstate
33 Commission has its principal offices, to enforce compliance with
34 the provisions of the compact or its promulgated rules and bylaws
35 against a member state in default. The relief sought may include
36 both injunctive relief and damages. In the event judicial
37 enforcement is necessary, the prevailing party shall be awarded
38 all costs of such litigation including reasonable attorney's fees.

39 (3) The remedies herein shall not be the exclusive remedies of
40 the Interstate Commission. The Interstate Commission may avail

1 *itself of any other remedies available under state law or the*
2 *regulation of a profession.*

3
4 *Article XIV. Financing of the Interstate Commission*
5

6 (A) *The Interstate Commission shall pay, or provide for the*
7 *payment of, the reasonable expenses of its establishment,*
8 *organization and ongoing activities.*

9 (B) *The Interstate Commission may levy on and collect an*
10 *annual assessment from each member state to cover the cost of*
11 *the operations and activities of the Interstate Commission and its*
12 *staff which must be in a total amount sufficient to cover the*
13 *Interstate Commission's annual budget as approved each year.*
14 *The aggregate annual assessment amount shall be allocated based*
15 *upon a formula to be determined by the Interstate Commission,*
16 *which shall promulgate a rule binding upon all member states.*

17 (C) *The Interstate Commission shall not incur obligations of*
18 *any kind prior to securing the funds adequate to meet the same;*
19 *nor shall the Interstate Commission pledge the credit of any of the*
20 *member states, except by and with the authority of the member*
21 *state.*

22 (D) *The Interstate Commission shall keep accurate accounts of*
23 *all receipts and disbursements. The receipts and disbursements of*
24 *the Interstate Commission shall be subject to the audit and*
25 *accounting procedures established under its bylaws. However, all*
26 *receipts and disbursements of funds handled by the Interstate*
27 *Commission shall be audited yearly by a certified or licensed*
28 *public accountant and the report of the audit shall be included in*
29 *and become part of the annual report of the Interstate Commission.*
30

31 *Article XV. Member, States, Effective Date and Amendment*
32

33 (A) *Any state is eligible to become a member state.*

34 (B) *The compact shall become effective and binding upon*
35 *legislative enactment of the compact into law by no less than ten*
36 *(10) of the states. The effective date shall be no earlier than*
37 *December 1, 2007. Thereafter it shall become effective and binding*
38 *as to any other member state upon enactment of the compact into*
39 *law by that state. The governors of non-member states or their*
40 *designees shall be invited to participate in the activities of the*

1 *Interstate Commission on a nonvoting basis prior to adoption of*
2 *the compact by all states.*

3 *(C) The Interstate Commission may propose amendments to the*
4 *compact for enactment by the member states. No amendment shall*
5 *become effective and binding upon the Interstate Commission and*
6 *the member states unless and until it is enacted into law by*
7 *unanimous consent of the member states.*

8
9 *Article XVI. Withdrawal and Dissolution*

10
11 *(A) Withdrawal*

12 *(1) Once effective, the compact shall continue in force and*
13 *remain binding upon each and every member state; provided that*
14 *a member state may withdraw from the compact by specifically*
15 *repealing the statute which enacted the compact into law.*

16 *(2) Withdrawal from this compact shall be by the enactment of*
17 *a statute repealing the same, but shall not take effect until one (1)*
18 *year after the effective date of such statute and until written notice*
19 *of the withdrawal has been given by the withdrawing state to the*
20 *Governor of each other member jurisdiction.*

21 *(3) The withdrawing state shall immediately notify the*
22 *chairperson of the Interstate Commission in writing upon the*
23 *introduction of legislation repealing this compact in the*
24 *withdrawing state. The Interstate Commission shall notify the other*
25 *member states of the withdrawing state's intent to withdraw within*
26 *sixty (60) days of its receipt thereof.*

27 *(4) The withdrawing state is responsible for all assessments,*
28 *obligations and liabilities incurred through the effective date of*
29 *withdrawal, including obligations, the performance of which extend*
30 *beyond the effective date of withdrawal.*

31 *(5) Reinstatement following withdrawal of a member state shall*
32 *occur upon the withdrawing state reenacting the compact or upon*
33 *such later date as determined by the Interstate Commission.*

34 *(B) Dissolution of Compact*

35 *(1) This compact shall dissolve effective upon the date of the*
36 *withdrawal or default of the member state which reduces the*
37 *membership in the compact to one (1) member state.*

38 *(2) Upon the dissolution of this compact, the compact becomes*
39 *null and void and shall be of no further force or effect, and the*
40 *business and affairs of the Interstate Commission shall be*

1 *concluded and surplus funds shall be distributed in accordance*
2 *with the bylaws.*

3
4 *Article XVII. Severability and Construction*
5

6 (A) *The provisions of this compact shall be severable, and if*
7 *any phrase, clause, sentence or provision is deemed unenforceable,*
8 *the remaining provisions of the compact shall be enforceable.*

9 (B) *The provisions of this compact shall be liberally construed*
10 *to effectuate its purposes.*

11 (C) *Nothing in this compact shall be construed to prohibit the*
12 *applicability of other interstate compacts to which the states are*
13 *members.*

14
15 *Article XVIII. Binding Effect of Compact and Other Laws*
16

17 (A) *Other Laws*

18 (1) *Nothing herein prevents the enforcement of any other law*
19 *of a member state that is not inconsistent with this compact.*

20 (2) *All member states' laws conflicting with this compact are*
21 *superseded to the extent of the conflict.*

22 (B) *Binding Effect of the Compact*

23 (1) *All lawful actions of the Interstate Commission, including*
24 *all rules and bylaws promulgated by the Interstate Commission,*
25 *are binding upon the member states.*

26 (2) *All agreements between the Interstate Commission and the*
27 *member states are binding in accordance with their terms.*

28 (3) *In the event any provision of this compact exceeds the*
29 *constitutional limits imposed on the legislature of any member*
30 *state, such provision shall be ineffective to the extent of the conflict*
31 *with the constitutional provision in question in that member state.*

32 49702. *Notwithstanding any other provision of law, the*
33 *Superintendent may accept nonstate funding to offset the cost of*
34 *the annual assessment required by Section (B) of Article XIV of*
35 *the Interstate Compact on Educational Opportunity for Military*
36 *Children. These moneys shall be available, upon appropriation*
37 *by the Legislature, for that purpose.*

38 49703. *The Superintendent may develop procedures for the*
39 *training of employees of local educational agencies in the*
40 *implementation of the Interstate Compact on Educational*

1 *Opportunity for Military Children as part of the process developed*
2 *pursuant to Article 4.5 (commencing with Section 51250) of*
3 *Chapter 2 of Part 28.*

4 *SEC. 2. If the Commission on State Mandates determines that*
5 *this act contains costs mandated by the state, reimbursement to*
6 *local agencies and school districts for those costs shall be made*
7 *pursuant to Part 7 (commencing with Section 17500) of Division*
8 *4 of Title 2 of the Government Code.*

O